

108TH CONGRESS
1ST SESSION

S. 451

To amend title 10, United States Code, to increase the minimum Survivor Benefit Plan basic annuity for surviving spouses age 62 and older, to provide for a one-year open season under that plan, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 26, 2003

Ms. SNOWE introduced the following bill; which was read twice and referred to the Committee on Armed Services

A BILL

To amend title 10, United States Code, to increase the minimum Survivor Benefit Plan basic annuity for surviving spouses age 62 and older, to provide for a one-year open season under that plan, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Military Survivor Ben-
5 efits Improvement Act of 2003”.

1 **SEC. 2. COMPUTATION OF BENEFITS UNDER SURVIVOR**
 2 **BENEFIT PLAN FOR SURVIVING SPOUSES**
 3 **OVER AGE 62.**

4 (a) PHASED INCREASE IN BASIC ANNUITY.—

5 (1) STANDARD ANNUITY.—

6 (A) INCREASE TO 55 PERCENT.—Clause (i)
 7 of subsection (a)(1)(B) of section 1451 of title
 8 10, United States Code, is amended by striking
 9 “35 percent of the base amount.” and inserting
 10 “the product of the base amount and the per-
 11 cent applicable to the month, as follows:

12 “(I) For a month before October
 13 2004, the applicable percent is 35 per-
 14 cent.

15 “(II) For a month during fiscal
 16 year 2005, the applicable percent is
 17 40 percent.

18 “(III) For a month during fiscal
 19 year 2006, the applicable percent is
 20 45 percent.

21 “(IV) For a month during fiscal
 22 year 2007, the applicable percent is
 23 50 percent.

24 “(V) For a month during a fiscal
 25 year after fiscal year 2007, the appli-
 26 cable percent is 55 percent.”.

1 (B) COORDINATION WITH SAVINGS PROVI-
 2 SION UNDER PRIOR LAW.—Clause (ii) of such
 3 subsection is amended by striking “, at the time
 4 the beneficiary becomes entitled to the annu-
 5 ity,”.

6 (2) RESERVE-COMPONENT ANNUITY.—Sub-
 7 section (a)(2)(B)(i)(I) of such section is amended by
 8 striking “35 percent” and inserting “the percent
 9 specified under subsection (a)(1)(B)(i) as being ap-
 10 plicable for the month”.

11 (3) SURVIVORS OF ELIGIBLE PERSONS DYING
 12 ON ACTIVE DUTY, ETC.—

13 (A) INCREASE TO 55 PERCENT.—Clause (i)
 14 of subsection (c)(1)(B) of such section is
 15 amended—

16 (i) by striking “35 percent” and in-
 17 serting “the applicable percent”; and

18 (ii) by adding at the end the fol-
 19 lowing: “The percent applicable for a
 20 month under the preceding sentence is the
 21 percent specified under subsection
 22 (a)(1)(B)(i) as being applicable for that
 23 month.”.

24 (B) COORDINATION WITH SAVINGS PROVI-
 25 SION UNDER PRIOR LAW.—Clause (ii) of such

1 subsection is amended by striking “, at the time
 2 the beneficiary becomes entitled to the annu-
 3 ity,”.

4 (4) CLERICAL AMENDMENT.—The heading for
 5 subsection (d)(2)(A) of such section is amended to
 6 read as follows: “COMPUTATION OF ANNUITY.—”.

7 (b) CORRESPONDING PHASED ELIMINATION OF SUP-
 8 PLEMENTAL ANNUITY.—

9 (1) PHASED REDUCTION OF SUPPLEMENTAL
 10 ANNUITY.—Section 1457(b) of title 10, United
 11 States Code, is amended—

12 (A) by striking “5, 10, 15, or 20 percent”
 13 and inserting “the applicable percent”; and

14 (B) by inserting after the first sentence
 15 the following: “The percent used for the com-
 16 putation shall be an even multiple of 5 percent
 17 and, whatever the percent specified in the elec-
 18 tion, may not exceed 20 percent for months be-
 19 fore October 2004, 15 percent for months dur-
 20 ing fiscal year 2005, 10 percent for months
 21 during fiscal year 2006, and 5 percent for
 22 months after September 2006.”.

23 (2) REPEAL UPON IMPLEMENTATION OF 55
 24 PERCENT SBP ANNUITY.—Effective on October 1,
 25 2007, chapter 73 of such title is amended—

1 (A) by striking subchapter III; and

2 (B) by striking the item relating to sub-
3 chapter III in the table of subchapters at the
4 beginning of that chapter.

5 (c) RECOMPUTATION OF ANNUITIES.—

6 (1) PERIODIC RECOMPUTATION REQUIRED.—

7 Effective on the first day of each month specified in
8 paragraph (2)—

9 (A) each annuity under section 1450 of
10 title 10, United States Code, that commenced
11 before that month, is computed under a provi-
12 sion of section 1451 of that title amended by
13 subsection (a), and is payable for that month
14 shall be recomputed so as to be equal to the
15 amount that would be in effect if the percent
16 applicable for that month under that provision,
17 as so amended, had been used for the initial
18 computation of the annuity; and

19 (B) each supplemental survivor annuity
20 under section 1457 of such title that com-
21 menced before that month and is payable for
22 that month shall be recomputed so as to be
23 equal to the amount that would be in effect if
24 the percent applicable for that month under
25 that section, as amended by this section, had

1 been used for the initial computation of the
2 supplemental survivor annuity.

3 (2) TIME FOR RECOMPUTATION.—The require-
4 ment under paragraph (1) for recomputation of cer-
5 tain annuities applies with respect to the following
6 months:

7 (A) October 2004.

8 (B) October 2005.

9 (C) October 2006.

10 (D) October 2007.

11 (d) RECOMPUTATION OF RETIRED PAY REDUCTIONS
12 FOR SUPPLEMENTAL SURVIVOR ANNUITIES.—The Sec-
13 retary of Defense shall take such actions as are neces-
14 sitated by the amendments made by subsection (b) and
15 the requirements of subsection (c)(1)(B) to ensure that
16 the reductions in retired pay under section 1460 of title
17 10, United States Code, are adjusted to achieve the objec-
18 tives set forth in subsection (b) of that section.

19 **SEC. 3. OPEN ENROLLMENT PERIOD FOR SURVIVOR BEN-**
20 **EFIT PLAN COMMENCING OCTOBER 1, 2004.**

21 (a) PERSONS NOT CURRENTLY PARTICIPATING IN
22 SURVIVOR BENEFIT PLAN.—

23 (1) ELECTION OF SBP COVERAGE.—An eligible
24 retired or former member may elect to participate in
25 the Survivor Benefit Plan under subchapter II of

chapter 73 of title 10, United States Code, during the open enrollment period specified in subsection (f).

(2) ELECTION OF SUPPLEMENTAL ANNUITY COVERAGE.—An eligible retired or former member who elects under paragraph (1) to participate in the Survivor Benefit Plan at the maximum level may also elect during the open enrollment period to participate in the Supplemental Survivor Benefit Plan established under subchapter III of chapter 73 of title 10, United States Code.

(3) ELIGIBLE RETIRED OR FORMER MEMBER.—For purposes of paragraphs (1) and (2), an eligible retired or former member is a member or former member of the uniformed services who on the day before the first day of the open enrollment period is not a participant in the Survivor Benefit Plan and—

(A) is entitled to retired pay; or

(B) would be entitled to retired pay under chapter 1223 of title 10, United States Code, but for the fact that such member or former member is under 60 years of age.

(4) STATUS UNDER SBP OF PERSONS MAKING ELECTIONS.—

1 (A) STANDARD ANNUITY.—A person mak-
 2 ing an election under paragraph (1) by reason
 3 of eligibility under paragraph (3)(A) shall be
 4 treated for all purposes as providing a standard
 5 annuity under the Survivor Benefit Plan.

6 (B) RESERVE-COMPONENT ANNUITY.—A
 7 person making an election under paragraph (1)
 8 by reason of eligibility under paragraph (3)(B)
 9 shall be treated for all purposes as providing a
 10 reserve-component annuity under the Survivor
 11 Benefit Plan.

12 (b) ELECTION TO INCREASE COVERAGE UNDER
 13 SBP.—A person who on the day before the first day of
 14 the open enrollment period is a participant in the Survivor
 15 Benefit Plan but is not participating at the maximum base
 16 amount or is providing coverage under the Plan for a de-
 17 pendent child and not for the person's spouse or former
 18 spouse may, during the open enrollment period, elect to—

19 (1) participate in the Plan at a higher base
 20 amount (not in excess of the participant's retired
 21 pay); or

22 (2) provide annuity coverage under the Plan for
 23 the person's spouse or former spouse at a base
 24 amount not less than the base amount provided for
 25 the dependent child.

1 (c) ELECTION FOR CURRENT SBP PARTICIPANTS TO
2 PARTICIPATE IN SUPPLEMENTAL SBP.—

3 (1) ELECTION.—A person who is eligible to
4 make an election under this paragraph may elect
5 during the open enrollment period to participate in
6 the Supplemental Survivor Benefit Plan established
7 under subchapter III of chapter 73 of title 10,
8 United States Code, as added by section 1404.

9 (2) PERSONS ELIGIBLE.—Except as provided in
10 paragraph (3), a person is eligible to make an elec-
11 tion under paragraph (1) if on the day before the
12 first day of the open enrollment period the person is
13 a participant in the Survivor Benefit Plan at the
14 maximum level, or during the open enrollment pe-
15 riod the person increases the level of such participa-
16 tion to the maximum level under subsection (b) of
17 this section, and under that Plan is providing annu-
18 ity coverage for the person's spouse or a former
19 spouse.

20 (3) LIMITATION ON ELIGIBILITY FOR CERTAIN
21 SBP PARTICIPANTS NOT AFFECTED BY TWO-TIER
22 ANNUITY COMPUTATION.—A person is not eligible to
23 make an election under paragraph (1) if (as deter-
24 mined by the Secretary concerned) the annuity of a
25 spouse or former spouse beneficiary of that person

1 under the Survivor Benefit Plan will be computed
2 under section 1451(e) of title 10, United States
3 Code. However, such a person may during the open
4 enrollment period waive the right to have that annu-
5 ity computed under such section. Any such election
6 is irrevocable. A person making such a waiver may
7 make an election under paragraph (1) as in the case
8 of any other participant in the Survivor Benefit
9 Plan.

10 (d) MANNER OF MAKING ELECTIONS.—An election
11 under this section must be made in writing, signed by the
12 person making the election, and received by the Secretary
13 concerned before the end of the open enrollment period.
14 Any such election shall be made subject to the same condi-
15 tions, and with the same opportunities for designation of
16 beneficiaries and specification of base amount, that apply
17 under the Survivor Benefit Plan or the Supplemental Sur-
18 vivor Benefit Plan, as the case may be. A person making
19 an election under subsection (a) to provide a reserve-com-
20 ponent annuity shall make a designation described in sec-
21 tion 1448(e) of title 10, United States Code.

22 (e) EFFECTIVE DATE FOR ELECTIONS.—Any such
23 election shall be effective as of the first day of the first
24 calendar month following the month in which the election
25 is received by the Secretary concerned.

1 (f) OPEN ENROLLMENT PERIOD DEFINED.—The
2 open enrollment period is the one-year period beginning
3 on October 1, 2004.

4 (g) EFFECT OF DEATH OF PERSON MAKING ELEC-
5 TION WITHIN TWO YEARS OF MAKING ELECTION.—If a
6 person making an election under this section dies before
7 the end of the two-year period beginning on the effective
8 date of the election, the election is void and the amount
9 of any reduction in retired pay of the person that is attrib-
10 utable to the election shall be paid in a lump sum to the
11 person who would have been the deceased person's bene-
12 ficiary under the voided election if the deceased person
13 had died after the end of such two-year period.

14 (h) APPLICABILITY OF CERTAIN PROVISIONS OF
15 LAW.—The provisions of sections 1449, 1453, and 1454
16 of title 10, United States Code, are applicable to a person
17 making an election, and to an election, under this section
18 in the same manner as if the election were made under
19 the Survivor Benefit Plan or the Supplemental Survivor
20 Benefit Plan, as the case may be.

21 (i) ADDITIONAL PREMIUM.—The Secretary of De-
22 fense may require that the premium for a person making
23 an election under subsection (a)(1) or (b) include, in addi-
24 tion to the amount required under section 1452(a) of title
25 10, United States Code, an amount determined under reg-

1 ulations prescribed by the Secretary of Defense for the
2 purposes of this subsection. Any such amount shall be
3 stated as a percentage of the base amount of the person
4 making the election and shall reflect the number of years
5 that have elapsed since the person retired, but may not
6 exceed 4.5 percent of that person's base amount.

7 (j) REPORT CONCERNING OPEN SEASON.—Not later
8 than July 1, 2004, the Secretary of Defense shall submit
9 to the Committees on Armed Services of the Senate and
10 House of Representatives a report on the open season au-
11 thorized by this section for the Survivor Benefit Plan. The
12 report shall include the following:

13 (1) A description of the Secretary's plans for
14 implementation of the open season.

15 (2) The Secretary's estimates of the costs asso-
16 ciated with the open season, including any antici-
17 pated effect of the open season on the actuarial sta-
18 tus of the Department of Defense Military Retire-
19 ment Fund.

20 (3) Any recommendation by the Secretary for
21 further legislative action.

○